NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Ralphs Grocery Company and United Food and Commercial Workers Union, Local No. 135, Local No. 324, Local Union 770, Local Union 1036, Local Union 1167, Local Union 1428, and Local Union 1442. Cases 31–CA–27160, 31–CA–27475, and 31–CA–27685

September 30, 2010

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS PEARCE AND HAYES

On February 19, 2008, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 352 NLRB 128.² Thereafter, the Charging Parties filed a petition for review in the United States Court of Appeals for the Ninth Circuit, and the General Counsel filed an application for enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the

Board, a delegee group of at least three members must be maintained. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.³

The Board has considered the judge's decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 352 NLRB 128 (2008), which is incorporated herein by reference.

Dated, Washington, D.C. September 30, 2010

Wilma B. Liebman,	Chairman
Mark Gaston Pearce,	Member
Brian E. Hayes,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ Local 135 was a charging party in Case Nos. 31–CA–27160 and 31–CA–27685, but was not a charging party in Case No. 31–CA–27475.

<sup>27475.

&</sup>lt;sup>2</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

³ Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.